

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
DECEMBER 6, 2004

**D045240 Martha A. et al. v. Superior Court of San Diego County/ San Diego County Health and Human Services Agency.**

The attorney for petitioner Martha A. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

**D045337 Tiffany V. v. Superior Court of San Diego County/ San Diego County Health and Human Services Agency.**

The attorney for petitioner Tiffany V. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

**D045412 Christopher S. et al. v. Superior Court of San Diego County/ San Diego County Health and Human Services Agency.**

The attorney for petitioner Rebecca S. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed. The case is dismissed.

**D044421 People v. Gadsen**

The judgment is affirmed. Huffman, Acting P.J.; We Concur: O'Rourke, J., Aaron, J.

**D044514 Cheng v. Superior Court of San Diego County/Strata Information Group Inc., et al.**

Let a writ of mandate issue directing the superior court to vacate its order granting the petition to compel arbitration. Costs are awarded to petitioner.

**D042937 Chacon et al. v. City of San Diego et al.**

The trial court's findings were fully supported by the record. The judgment is affirmed. Benke, Acting P.J.; We Concur: Aaron, J., Irion, J.

**D043373 Mendoza v. Lanes et al.**

The opinion filed November 17, 2004 is modified. There is no change in judgment. The petition for rehearing is denied.

**D042150 People v. Huggins et al.**

The sentences on counts 5 through 8 are reversed. The case is remanded to the trial court for resentencing in accordance with the principles expressed in this opinion. In all other respects the judgments are affirmed. Huffman, J.; I Concur: Aaron, J.; Dissenting and Concurring opinion: Benke, Acting P.J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**D044156        In re Huggins on Habeas Corpus**

The petition for writ of habeas corpus has been read and considered by Justices Benke, Huffman and Aaron. The petition alleges ineffective assistance of trial counsel. The same issue was raised in the direct appeal from petitioner's conviction (People v. Huggins, D042150). The only material provided in the conviction, which is not in the trial court record on appeal is a declaration filed by trial counsel (Exhibit G to the petition). That declaration does not add any information that would demonstrate that trial counsel was ineffective.

The issue of whether trial counsel was ineffective at trial was addressed in the opinion filed on the direct appeal (D042150). In that opinion we rejected Petitioner's claim of ineffective assistance. Since this petition has not presented any additional basis on which a claim of ineffective assistance of trial counsel could be sustained, the petition is denied for the reasons stated in our opinion in D042150.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
DECEMBER 7, 2004

**D042385 Building Industry Association of San Diego County et al. v. State Water Resources Control Board et al.**

Judgment affirmed. Building Industry to pay respondents' costs on appeal. CERTIFIED FOR PARTIAL PUBLICATION. Haller, J.; We Concur: Benke, Acting P.J., Aaron, J.

**D045406 Gregg v. Superior Court of San Diego County/San Dieguito Partnership et al.**

The petition is denied.

**D044956 In re Daniels on Habeas Corpus**

The petition is denied.

**D044078 Stephen C., a Minor etc. v. James C. et al.**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal is dismissed.

**D042811 People v. Campa**

The judgment is affirmed as to the convictions. The judgment is reversed as to the sentence and remanded for resentencing in a manner consistent with the views expressed in this opinion. Haller, J.; We Concur: McConnell, P.J., McDonald, J.

**D042720 People v. Jordan**

The sentence, insofar as the court imposed the upper term for the robbery conviction, is vacated; in all other respects, the judgment is affirmed. The case is remanded to the superior court to conduct a new sentencing hearing consistent with the principles discussed in this opinion. McDonald, J.; I Concur: O'Rourke, J.; Dissenting and Concurring opinion: Benke, Acting P.J.

**D045335 In re Marsh on Habeas Corpus**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
DECEMBER 8, 2004

**D045263      Michael S., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

By failing to file a timely petition for writ relief, the notice of intent is deemed to be abandoned. The case is dismissed.

**D043159      People v Rucker**

A rehearing is ordered on the above entitled matter. The court requests the parties address the effect of the statutory definitions of "dating relationship" contained in Family code section 6210 and Penal code section 243, subdivision (f)(10). The appellant shall have 10 days from the date of this filing to submit a letter brief not to exceed three pages. The respondent shall thereafter have 10 days to submit a response not to exceed three pages. The case will then be deemed submitted.

**D044578      In re Brittani O. et al., Juveniles**

The judgments terminating parental rights are affirmed. The portion of the order restraining Todd from coming within 100 yards of the children, their schools and childcare facilities, and grandparents' places of work and vehicles is reversed and the trial court is directed to hold a hearing to determine whether such a restraining order is appropriate. The remainder of the order is affirmed. O'Rourke, J.;  
We Concur: Nares, Acting P.J., McIntyre, J.

**D045333      In re Barnes on Habeas Corpus**

The petition is denied.

**D043304      Oliver v. Bank of America**

The judgment is affirmed. The Bank shall recover its costs on appeal. Nares, Acting P.J.;  
We Concur: Haller, J., McIntyre, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
DECEMBER 9, 2004

**D044457        People v. David**

The judgment is affirmed. Haller, Acting P.J.; We Concur: Aaron, J., Irion, J.

**D045218        Arthroscopic and Laser Surgery Center of San Diego v. Berglund**

The petition is denied.

**D045484        Clark v. Superior Court of San Diego County/People**

The petition is denied.

**D044139        People v. Smith**

The judgment is affirmed. McIntyre, J.; We Concur: Haller, Acting P.J., McDonald, J.

**D043987        In re Patrick J., a Juvenile**

The judgment is affirmed. Benke, Acting P.J.; We Concur: Nares, J., Haller, J.

**D044381        In re K.D., a Juvenile**

The opinion filed November 10, 2004, is ordered certified for publication.

The request for modification is denied.

**D045509        Adoption of Joshua S., a Minor**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
DECEMBER 10, 2004

**D044106        People v. Chaplin**

The judgment is affirmed. Irion, J.; We Concur: Nares, Acting P.J., Haller, J.

**D042763        In re Marriage of Wright**

The order is affirmed. Nares, Acting P.J.; We Concur: McIntyre, J., Aaron, J.

**D043173        In re Tobacco Cases I, JCCP 4041**

The order is affirmed. State is entitled to costs on appeal. CERTIFIED FOR PUBLICATION.  
McDonald, J.; We Concur: McConnell, P.J., Haller, J.

**D044549        In Marriage of Shah**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a).  
The appeal is dismissed.

**D043787        Crosspoint Venture Partners 1997 et al. v. Maxim Pharmaceuticals Inc., et al./McNeil**

The judgment is reversed in its entirety, and the matter is remanded for further proceedings. Appellants shall recover their costs on appeal. Nares, Acting P.J.; We Concur: McIntyre, J., Aaron, J.

**D037802        El Toro Reuse Planning Authority et al. v. Orange County Board of Supervisors, et al.**

Upon written request filed by appellants and letter from respondents joining in request for dismissal with each party to bear own costs, the appeal is dismissed.

**D043255        In re Marriage of Polli**

The judgment is reversed. Each party shall bear his or her own costs on appeal. McDonald, J.; We Concur: McConnell, J., O'Rourke, J.

**D044015        Margo G. v. County of San Diego**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a).  
The appeal is dismissed.

**D045409        Bearingpoint Inc., et al. v. Superior Court of San Diego County/Ariko et al.**

The petition is denied.

**D045510        Leep v. Lund**

The petition is denied.

**D045341        In re Belmont on Habeas Corpus**

The petition is denied.

**The 45497        People v. Villapando**

In that no appealable order or judgment has yet been entered, the notice of appeal is premature. The appeal is dismissed without prejudice to refile a notice of appeal after an order or judgment has been entered.